



September 19, 2019

Scott Lusty
General Manager
Western States Gypsum
P.O. Box 20160
Carson City, Nevada 89721

**RE: Notice of Alleged Air Quality Violations and Order Nos. 2676, 2678, & 2710
Class II Air Quality Operating Permit AP1499-0504.03 (FIN A0739)**

Dear Mr. Lusty:

The Nevada Division of Environmental Protection (NDEP) alleges that Art Wilson Co., D.B.A. Western States Gypsum (WSG) has violated conditions of Class II Air Quality Operating Permit No. AP1499-0504.03 (Operating Permit). Specifically, that WSG failed to operate controls and exceeded opacity limits as specified in the Operating Permit.

On January 31, 2019, NDEP held an enforcement conference with WSG to determine whether issuance of Notices of Alleged Air Quality Violation and Order (NOAV) Nos. 2676 and 2678 were or were not warranted. During the enforcement conference WSG did not supply any evidence that NOAV Nos. 2676 and 2678 did not occur. Based on the information provided by WSG, NDEP has determined that formal issuance of NOAV Nos. 2676 and 2678 are warranted.

On September 10, 2019, NDEP held an enforcement conference with WSG to determine if issuance of NOAV and Order No. 2710 was or was not warranted. The conference was also used to address any remaining questions and concerns with regards to NOAVs 2676 and 2678.

Subsequent to the September enforcement conference, NDEP reviewed guidance on water sprays and determined that the fact that the control for, System 1 (PF1.003) – Feeder discharge to primary crusher A1, was a garden hose with a spray nozzle did not preclude it from being considered a water spray as long as the spray is fine enough to effectively control emissions. As the spray from the nozzle visually appeared to be effective at controlling emissions, the alleged failure to maintain controls for PF1.003 is being dismissed.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, the alleged violations constitute major violations and they are WSG's first air quality violations within the last 60 months.

As was discussed during the enforcement conference, NDEP makes recommendations to the Nevada State Environmental Commission (SEC) as to what an appropriate penalty may be for an air quality violation. NDEP will be recommending a penalty of **\$10,200.00** for NOAV No. 2676, a penalty of **\$1,500.00** for NOAV No. 2678, and a penalty of **\$5,560.00** for NOAV No. 2710. All three penalties were calculated based on use of the Administrative Penalty Matrix for air quality violations. The open to public SEC

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hearing is tentatively scheduled for December 4, 2019. You will be notified when the time and location for the hearing has been finalized.

Appeals of NOAV & Orders Nos. 2676, 2678 and 2710 may be requested pursuant to **Nevada Revised Statute (NRS) 445B.360 Appeals to Commission: Appealable matters; action by Commission; regulations** and SEC administrative rules. A copy of SEC Appeal Form #3 is enclosed. Appeals must be received within ten (10) days of receipt of this notice, pursuant to **NRS 445B.340 Appeals to Commission: Notice of appeal**. Appeals are processed through Valerie King, the Executive Secretary for the SEC, at 901 South Stewart Street, Suite 4001, Carson City, Nevada, 89701-5249. Mrs. King can be reached at (775) 687-9374, or by fax at (775) 687-5856. Please provide me with a copy of any correspondence your company may have with the SEC.

If you have any questions regarding the alleged violation or the enforcement conference, please contact me at (775) 687-9499 or by email at atucker@ndep.nv.gov.

Sincerely,



Andrew Tucker
Supervisor, Enforcement Branch
Bureau of Air Quality Planning

AJT

enc.: 1. Notices of Alleged Air Quality Violation and Order No. 2676, 2678 & 2710
2. SEC Form #3

cc (w/enc.): Valerie King, SEC
Storey County Board of County Commissioners
FIN A0739 (Certified Copy)

E-Copy: Danilo Dragoni, Ph.D., Chief, BAQP
Lisa Kremer, P.E., Chief, BAPC
Travis Osterhout, P.E., Compliance Supervisor, BAPC
Ashley Taylor, P.E., GISP, Permitting Supervisor, BAPC
Tanya Soleta, P.E., Permitting Supervisor, BAPC

Certified Mail No.: 9171 9690 0935 0218 7436 35

STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
BUREAU OF AIR QUALITY PLANNING
901 SOUTH STEWART ST., SUITE 4001
CARSON CITY, NEVADA 89701-5249
NOTICE OF ALLEGED AIR QUALITY VIOLATION NO. 2676

Person(s) to Whom Served: Scott Lusty, General Manager

Company Name: Art Wilson Co., D.B.A. Western States Gypsum

Address: P.O. Box 20160, Carson City, NV 89721

Permit Number: AP1499-0504.03 **FIN:** A0739

Site of Alleged Violation: 145 Linehan Road, Moundhouse, NV 89706

Date of Observations: 10/30/2018 **Time:** 4:15 pm - 5:30 pm

It is alleged that the following regulation was violated by the person named in this notice:

Nevada Administrative Code (NAC) 445B.275 Violations: Acts constituting; notice.

1. Failure to comply with any requirement of NAC 445B.001 to 445B.3689, inclusive, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445B.450, the Director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:

(c) Failure to construct or operate a stationary source in accordance with any condition of an operating permit;

It is alleged that the following act or practice constitutes the violation:

Failure to operate and maintain controls.

Evidence:

Art Wilson Company d.b.a. Western States Gypsum (WSG) operates a gypsum and limestone mine under the requirements of Class II Air Quality Operating Permit AP1499-0504.03 (Operating Permit) issued by the Nevada Division of Environmental Protection (NDEP) on August 13, 2012.

On October 30, 2018, NDEP observed that the facility was operating without the permit-required water sprays in an operational condition for seventeen emission units. Table 1 provides further detail of the seventeen uncontrolled emission units.

Table 1: Emission Units Observed Operating Without Required Air Pollution Controls

System	Emission Unit	Description	Required Control Device
4	PF1.006	Three deck screen A-2	Water sprays
11	PF1.014	Two Deck Screen A-4	Water sprays
12	PF1.015	Return conveyor C-8 discharge to transfer conveyor C-6	Water sprays
13	PF1.016	Stacker Conveyor C-9 discharges to the fines output stockpile	Water sprays
18	PF1.024	Conveyor C-11 discharges into a vertical shaft impact crusher	Water sprays
19	PF1.025	Vertical shaft impact crusher B3	Water sprays
49	PF1.057	Loader transfer to vibrating grizzly feeder	Water sprays
50	PF1.058	Vibrating grizzly feeder and discharge to impact crusher P-22	Water sprays
50	PF1.059	30" x 80' conveyor P-26 and discharge to impact crusher P-22	Water sprays

Evidence Continued:

50	PF1.060	Impact crusher P-22 and discharge to crusher discharge conveyor P-1	Water sprays
51	PF1.061	Crusher discharge conveyor P1 and discharge to 3-deck screen P-23	Water sprays
51	PF1.062	Conveyor P-31 and discharge to 3-deck screen P-23	Water sprays
51	PF1.063	3-deck screen P-23 and discharge to 30" x 80' conveyor P-25, 30" x 60' conveyor P-24, 30" x 50' conveyor P-32, or 30" x 80' conveyor P-26	Water sprays
52	PF1.064	30" x 50' conveyor P-32 and discharge to VSI crusher P-30	Water sprays
52	PF1.065	VSI crusher P-30 and discharge to 30" x 60' conveyor P-31	Water sprays
53	PF1.066	30" x 60' conveyor P-24 and discharge to stockpile	Water sprays
53	PF1.067	30" x 80' conveyor P-25 and discharge to stockpile	Water sprays

On November 19, 2018, NDEP staff met with WSG at the facility site to address some questions in regards to a permitting action that was being worked on, and to verify that WSG had returned to compliance. At that time, WSG was operating in compliance with the air pollution control requirements of the Operating Permit.

On January 31, 2019, NDEP held an enforcement conference with WSG to determine whether issuance of Notices of Alleged Air Quality Violation (NOAV) and Order Nos. 2676 and 2678 were or were not warranted. During the enforcement conference WSG did not provide evidence that NOAV 2676 did not happen.

On November 10, 2019, NDEP provided WSG a second opportunity to address any remaining questions or concerns about the alleged violations.

Based on the information provided by WSG, NDEP has determined that formal issuance of NOAV No. 2676 is warranted.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, failure to comply with the permitted opacity limits constitutes a major violation. This NOAV and Order in addition to NOAV Nos. 2678 and 2710, sent under the same cover, represents WSG's first air quality violation within the last 60 months.

STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
BUREAU OF AIR QUALITY PLANNING
901 SOUTH STEWART ST., SUITE 4001
CARSON CITY, NEVADA 89701-5249
NOTICE OF ALLEGED AIR QUALITY VIOLATION NO. 2678

Person(s) to Whom Served: Scott Lusty, General Manager

Company Name: Art Wilson Co., D.B.A. Western States Gypsum

Address: P.O. Box 20160, Carson City, NV 89721

Permit Number: AP1499-0504.03

FIN: A0739

Site of Alleged Violation: 145 Linehan Road, Moundhouse, NV 89706

Date of Observations: 10/30/2018 **Time:** 4:15 pm - 5:30 pm

It is alleged that the following regulation was violated by the person named in this notice:

Nevada Administrative Code (NAC) 445B.275 Violations: Acts constituting; notice.

1. Failure to comply with any requirement of NAC 445B.001 to 445B.3689, inclusive, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445B.450, the Director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:

(c) Failure to construct or operate a stationary source in accordance with any condition of an operating permit;

It is alleged that the following act or practice constitutes the violation:

Failure to comply with the permitted opacity limits.

Evidence:

Art Wilson Company d.b.a. Western States Gypsum (WSG) operates a gypsum and limestone mine under the requirements of Class II Air Quality Operating Permit AP1499-0504.03 issued by the Nevada Division of Environmental Protection (NDEP) on August 13, 2012.

On October 30, 2018, NDEP staff conducted an EPA Reference Method 9 visible emission test on the screen for the secondary crushing circuit (System 17 - PF1.023) for six minutes. NDEP staff observed an opacity coming from the screen of 22.5% which is 321% of the permitted opacity limit of 7%.

Table 1: Method 9 Opacity Observations

Minute	Seconds			
	0	15	30	45
1	20%	15%	20%	25%
2	25%	20%	30%	25%
3	25%	20%	25%	20%
4	30%	30%	30%	20%
5	20%	20%	20%	25%
6	15%	20%	20%	20%
Six Minute Average:				22.5%

On November 19, 2018, NDEP staff met with WSG at the facility site to address some questions in regards to a permitting action that was being worked on, and to verify that WSG had returned to compliance. At that time, WSG was operating in compliance with the opacity limits for System 17 - PF1.023.

On January 31, 2019, NDEP held an enforcement conference with WSG to determine whether issuance of Notices of Alleged Air Quality Violation (NOAV) and Order Nos. 2676 and 2678 were or were not warranted. During the enforcement conference WSG did not provide evidence that NOAV 2678 did not happen. Based on the information provided by WSG, NDEP has determined that formal issuance of NOAV No. 2678 is warranted.

On November 10, 2019, NDEP provided WSG a second opportunity to address any remaining questions or concerns about the alleged violations.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, failure to comply with the permitted opacity limits constitutes a major violation. This NOAV in addition to NOAV Nos. 2676 and 2710, sent under the same cover, represents WSG's first air quality violation within the last 60 months.

STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
BUREAU OF AIR QUALITY PLANNING
901 SOUTH STEWART ST., SUITE 4001
CARSON CITY, NEVADA 89701-5249

NOTICE OF ALLEGED AIR QUALITY VIOLATION NO. 2710

Person(s) to Whom Served: Scott Lusty, General Manager

Company Name: Art Wilson Co., D.B.A. Western States Gypsum

Address: P.O. Box 20160, Carson City, NV 89721

Permit Number: AP1499-0504.03 **FIN:** A0739

Site of Alleged Violation: 145 Linehan Road, Moundhouse, NV 89706

Date of Observation: 5/10/2017 **Arrival:** n/a **Departure:** N/A

It is alleged that the following regulations were violated by the person named in this notice:

Nevada Administrative Code (NAC) 445B.275 Violations: Acts constituting; notice.

1. Failure to comply with any requirement of NAC 445B.001 to 445B.390, inclusive, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445B.450, the Director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:

(c) Failure to construct or operate a stationary source in accordance with any condition of an operating permit;

It is alleged that the following act or practice constitutes the violation:

Exceeded permitted emission limit during source testing.

Evidence:

Art Wilson Company d.b.a. Western States Gypsum (WSG) operates an aggregate plant facility under the requirements of Class II AQOP AP1499-0504.03 issued August 13, 2012.

On May 10, 2017, WSG conducted permit required source testing on System 33 - Plant B Vibrating Fluid Bed Dryer B-10 (S2.005). Test results indicate that System 33 had an average PM/PM₁₀ emission rate of 7.12 lb/hr, which is 126% of the permitted emission rate of 5.67 lb/hr. System 33 is also subject the New Source Performance Standards – Subpart UUU – Standards of Performance for Calciners and Dryers in Mineral Industries (40 CFR Part 60.730 through 60.737) which limits particulate emissions to 0.057 g/dscm. The test results indicate that System 33 had an average PM/PM₁₀ emission rate of 0.079 g/dscm which is 139% of the Subpart UUU limit.

On September 10, 2019, Nevada Division of Environmental Protection held an enforcement conference with WSG. During the enforcement conference WSG was given the opportunity to provide evidence that the alleged violation had not occurred or provide evidence of mitigating factors.

Based on the information provided by WSG, NDEP has determined that formal issuance of NOAV No. 2710 is warranted.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, failure to comply with permitted emission limits constitutes a major violation. This NOAV and Order in addition to NOAV Nos. 2676 and 2678, sent under the same cover, represents WSG's first air quality violation within the last 60 months.



State of Nevada
Dept. of Conservation & Natural Resources
State Environmental Commission SEC.nv.gov
901 South Stewart Street, Suite 4001, Carson City, Nevada 89701

FORM 3: FORM FOR REQUESTING AN APPEAL HEARING
(Provide attachments as needed)

1. Name, address, telephone number, and signature of appellant:

Name: _____

Physical Address: _____

E-mail Address: _____

Telephone Number: _____

Signature: _____

Representative capacity (if applicable): _____

2. Attach copy of Nevada Division of Environmental Protection final decision, such as permit or notice of alleged violation, being appealed.

3. Specify grounds of appeal: (check all that apply)

- Final decision in violation of constitutional or statutory provision;
- Final decision made upon unlawful procedure;
- Final decision was affected by other error of law;
- Final decision was clearly erroneous in view of the reliable, probative and substantial evidence on the whole record;
- Final decision was arbitrary or capricious or characterized by abuse of discretion;

4. For each ground of appeal checked above, please list the constitutional, Nevada Revised Statute (NRS), and/or Nevada Administrative Code (NAC) provision allegedly violated. Also list the statutes and/or or regulations that give the State Environmental Commission jurisdiction to hear the appeal.

5. For each ground of appeal checked above, provide a brief and concise statement of the facts which provide the basis for the appeal.

Date of Request: _____.

Send Form to: Executive Secretary, State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, NV 89701